

IN RE: PETITION FOR ZONING VARIANCE
N/S Middleborough Rd., 155'
N of c/l of West Road
1726 Middleborough Road
15th Election District
5th Councilmanic District
Richard G. Shiflet, Jr., et ux
Petitioners

BEFORE THE
ZONING COMMISSIONER
OF BALTIMORE COUNTY
Case No. 90-136-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a variance from Sections 400.1 and 400.3 to permit 0 feet side yard setback and 18 feet height in lieu of the minimum 2-1/2 feet and maximum 15 feet, respectively, for an accessory structure, as more particularly described on Petitioners' Exhibit 1.

The Petitioners, Mr. and Mrs. Shiflet, appeared and testified. There were no Protestants.

Testimony and evidence indicated that the subject property known as 1726 Middleborough Road consists of .31 acres +/-, zoned D.R. 5.5, and is improved with an existing dwelling, detached carport and metal shed. The Petitioners are desirous of constructing a detached garage. Mr. Shiflet testified that in view of the existing storm drain easements, as indicated on Petitioners' Exhibit 1, the proposed location for the subject garage is the only practical location on the property. Mr. Shiflet also testified that, at some time in the future, he is planning to install water and electric hookup in the proposed garage.

Testimony indicated that the Petitioners' adjoining neighbors have been advised of their proposal and they have no objection to same.

Based upon the testimony and evidence presented at the hearing, all of which was uncontradicted, in the opinion of the Zoning Commissioner the

relief requested sufficiently complies with the requirements of Section 307 of the Baltimore County Zoning Regulations (B.C.Z.R.) and, therefore, should be granted. There is no evidence in the record that the subject variance would adversely affect the health, safety and/or general welfare of the public. Furthermore, strict compliance with the B.C.Z.R. would result in practical difficulty and/or unreasonable hardship upon the Petitioner.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 25th day of Oct., 1989 that the Petition for a zoning Variance from Section 400.1 and 400.3 to permit 0 feet side yard setback and 18 feet in height in lieu of the minimum 2-1/2 feet and maximum 15 feet, respectively, for an accessory structure, in accordance with Petitioners' Exhibits 1, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED, that the Petitioners' request to provide water and electric hookup is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief granted herein:

1. The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this order has expired. If, for whatever reason, this order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.

2. The Petitioners shall not allow or cause the accessory structure to be converted to a second dwelling unit and/or apartment. The garage shall contain no living or sleeping quarters, and no kitchen or bathroom facilities.

-2-

3. Upon request and reasonable notice, the Petitioner shall permit a representative of the Zoning Enforcement Division to make an inspection of the subject property to insure compliance with this Order.

J. Robert Haines
Zoning Commissioner
for Baltimore County

JRH/mm

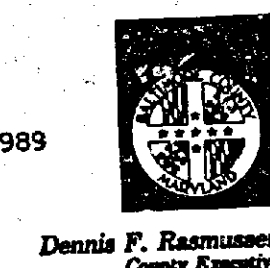
cc: Peoples Counsel

ORDER RECEIVED FOR FILING
Date 10/25/89
By Th. Haines

-3-

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Townson, Maryland 21204
(301) 887-3333
J. Robert Haines
Zoning Commissioner

October 20, 1989



Mr. and Mrs. Richard G. Shiflet, Jr.
1726 Middleborough Road
Baltimore, Maryland 21221

RE: Petition for Zoning Variance
Case No. 90-136-A

Dear Mr. and Mrs. Shiflet:

Enclosed please find the decision rendered in the above captioned case. The Petition for Zoning Variance has been granted in accordance with the attached Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days of the date of the Order to the County Board of Appeals. If you require additional information concerning filing an appeal, please feel free to contact our Appeals Clerk at 887-3391.

Very truly yours,

J. Robert Haines
Zoning Commissioner

JRH:mm
cc: Peoples Counsel

PETITION FOR ZONING VARIANCE

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a

Variance from Section 400.1 and 400.3 to permit 0 feet side yard setback and 18 feet height in lieu of the minimum 2-1/2 feet and maximum 15 feet, respectively, for an accessory structure (garage).

RESPECTFULLY REQUESTING that the Zoning Law of Baltimore County, to the Zoning Law of Baltimore County, for the following reasons: (Indicate hardship or practical difficulty)

See attachment

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Legal Owner(s):

Richard G. Shiflet, Jr.

(Type or Print Name)

Signature

Richard G. Shiflet, Jr.

(Type or Print Name)

Signature

Address

City and State

Name, address and phone number of legal owner, contract purchaser or representative to be contacted

Richard G. Shiflet, Jr.

Name

Address

Phone No.

1726 Middleborough Rd. 391-4366

Address

Phone No.

1989

day

that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be held before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 11th day of Oct., 1989, at 2 o'clock

at 2 o'clock

J. Robert Haines

Zoning Commissioner of Baltimore County

ESTIMATED LENGTH OF HEARING: 1/2 HR. (15 MIN.)
AVAILABLE FOR HEARING: MON, TUES, WED - NEXT TWO MONTHS
REVIEWED BY: JMK DATE: 10/19/89

The following is the reasons for asking for a variance:

My original contract for purchasing the property had a clause. For building a garage of my choice in the north west corner of the property. The size garage was to be 26ft. by 30ft. According to information received at settlement and before to settlement from Baltimore County all was ok to build the specified garage.

The permit department need a plat plan for my property. My property does not have a "Plat" instead it is described by metes and bounds. A person at permits suggested going to a couple of different departments at the County because they might have a plat for my area. The Sewer Department had a plat of my land much to my surprise.

The plat showed a sewer main going through my property. At the time of settlement, I was assured by the presenting attorney that the drain pipe was the only pipe in my yard. Consequently, I have two (2) pipes going through my property. A sewer pipe running directly under my proposed garage and the storm drain pipe which is 35ft. from the west property line running parallel to the west property line. The storm drain did not interfere with my original plan.

Therefore, I had to adjust my garage to meet the new restrictions placed on my land, which I did not know nothing about until it was too late. Since finding this out I have been tied up in the legal system for five (5) years and the final conclusion was not anything close to practical and fair to me. My adjusted garage would be 21ft. wide by 35ft. deep by 18ft. height.

Strict compliance with the B.C.Z.R. would become an unnecessary burden not as a result of my actions. Also, the hardship is peculiar to other properties in the area.

ZONING DESCRIPTION

BEGINNING for the same at a point on the northerly side of Middleborough Road, as widened to forty-five feet on said northerly side, distant one hundred and forty feet westerly, measured along the said northerly side of said Middleborough Road, from the corner formed by the intersection of the said northerly side of said Middleborough Road and the westerly side of West Road as widened to thirty feet on said westerly side; and running thence from said place of beginning, binding on the said northerly side of said Middleborough Road south outline of the whole parcel of land of which the lot now being described is a part; and running thence north five degrees fifty-four minutes west, leaving binding on part of said westerly outline of said whole parcel of land, one hundred thirty-five feet; thence north eighty-four degrees six minutes, east parallel with said Middleborough Road, 101.20 feet and thence south five degrees fifty-four minutes east parallel with the second line of this description, one hundred thirty-five feet more or less to the place of beginning. The improvements thereon being known as 1726 Middleborough Road.

BEING subject to a ten foot Drainage Right-of-Way running from said Middleborough Road northerly, in and parallel with the stream across the westerly part of above described lot. Granted to Baltimore County, Maryland, by deed and agreement dated January 7, 1960 and recorded among the Land Records of Baltimore County in Liber WJR 3658, folio 52.

BEING the same lot of ground which by Deed of Assignment dated November 21, 1963 and recorded among the Land Records of Baltimore County in Liber RDG No. 4233 folio 124, was granted and assigned by Wm. P. Bolton, Inc. unto the Grantors herein named, subject to the restrictions and easement to which said lot is liable.

APPLICATION FOR BUILDING PERMIT

PERMIT #: B056022 CONTROL #: MR DIST: 15 PREC: 18

LOCATION: 1726 MIDDLEBOROUGH RD
SUBDIVISION: MIDDLEBOROUGH
TAX ASSESSMENT #: 1508302800

OWNERS INFORMATION
NAME: SHIFLET, JR., RICHARD G. & DAWN M.
ADDR: 1726 MIDDLEBOROUGH RD BALTO. MD 21221

APPLICANT INFORMATION
NAME: RICHARD G. & DAWN SHIFLET, JR.
COMPANY: G.M. MYERS
ADDR1: 4223 FENEZEER RD.
ADDR2: BALTO. MD 21220
PHONE #: 335-7750 LICENSE #: 12527

NOTES
NBL/JAB

TRACT: BLOCK:
PLANS: CONST 00 PLOT 3 R FLAT DATA ELEC NO PLUM NO
TENANT:
CONTR: G.M. MYERS
ENGR:
SELLR:
WORK: CONSTRUCT 20X35X18 = 700 SF. GARAGE IN REAR YARD OF SFD. (STRUCTURE MUST BE 1 HR. FIRE RATED WITH NO OPENINGS). 90-136-A-SUBJECT TO ZONING COMMISSIONER'S RESTRICTIONS. GRD. EL. 26.0

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 1534 Date of Posting: 9/22/89

Posted for: Varior

Petitioner: Richard G. Shiflet, Jr.

Location of property: 115 Middleborough Rd. 155' W of C/L of West Rd.

Location of Sign: Facing Middleborough Rd. approx. 12' E of road way, on property of petitioner.

Remarks: None

Posted by: [Signature] Date of return: 9/29/89

Number of Signs: 1

CERTIFICATE OF PUBLICATION

TOWSON, MD. Sept. 21, 1989

THIS IS TO CERTIFY that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md. once in each of 12 successive weeks, the first publication appearing on Sept. 21, 1989.

THE JEFFERSONIAN
S. Zeke Orlan
Publisher

PO. 17169
79 134202
ca 90-136-A
price \$39.40

CERTIFICATE OF PUBLICATION
Office of

THE AVENUE NEWS

442 Eastern Blvd.
Baltimore, MD. 21221

Sept. 21 1989

THIS IS TO CERTIFY that the annexed advertisement of Zoning Variance in the matter of Middleborough Road, 155' W of C/L of West Bend Rd. Case #90-136-A P.O. #17170, Req. # M34203. 84 lines @ \$56 or \$46.20

was inserted in The Avenue News a weekly newspaper published in Baltimore County, Maryland once a week for 1 successive week(s) before the 22 day of Sept. 1989.

It is to say, the same was inserted in the issues of Sept. 21, 1989.

The Avenue Inc.
per publisher
By Diane McDowell

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows:

Petition for Zoning Variance
CASE NUMBER: 90-136-A
1/5 of Middleborough Road, 155' W of C/L of West Road
1726 Middleborough Road
15th Election District - 5th Councilmanic
Petitioner(s): Richard G. Shiflet, Jr., et ux
HEARING SCHEDULED: WEDNESDAY, OCTOBER 11, 1989 at 2:00 p.m.

Variances To permit a 0 foot side yard setback and 18 foot height in lieu of the minimum 2-1/2 foot and maximum 15 feet for an accessory structure (garage), respectively.

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.

J. Robert Haines
J. ROBERT HAINES
ZONING COMMISSIONER
BALTIMORE COUNTY, MARYLAND

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3353

J. Robert Haines
Zoning Commissioner

DATE 9/25/89

Mr. & Mrs. Richard Shiflet, Jr.
1726 Middleborough Road
Baltimore, Maryland 21221

Re: Petition for Zoning Variance
CASE NUMBER: 90-136-A
1/5 of Middleborough Road, 155' W of C/L of West Road
1726 Middleborough Road
15th Election District - 5th Councilmanic
Petitioner(s): Richard G. Shiflet, Jr., et ux
HEARING SCHEDULED: WEDNESDAY, OCTOBER 11, 1989 at 2:00 p.m.

Dear Mr. & Mrs. Shiflet:

Please be advised that \$ 110.00 is due for advertising and posting of the above captioned property.

THIS FEE MUST BE PAID AND THE ZONING SIGN & POST SET(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT ISSUE. DO NOT REMOVE THE SIGN & POST SET(S) FROM THE PROPERTY UNTIL THE DAY OF THE HEARING.

Please make your check payable to Baltimore County, Maryland. Bring the check and the sign & post set(s) to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 113, Towson, Maryland fifteen (15) minutes before your hearing is scheduled to begin.

Be advised that should you fail to return the sign & post set(s), there will be an additional \$50.00 added to the above amount for each such set not returned.

Very truly yours,
J. Robert Haines
J. ROBERT HAINES
ZONING COMMISSIONER

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3353

J. Robert Haines
Zoning Commissioner

DATE 9/25/89

Mr. & Mrs. Richard Shiflet, Jr.
1726 Middleborough Road
Baltimore, Maryland 21221

Re: Petition for Zoning Variance
CASE NUMBER: 90-136-A
1/5 of Middleborough Road, 155' W of C/L of West Road
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Very truly yours,
J. Robert Haines
J. ROBERT HAINES
ZONING COMMISSIONER

MH 23680

CARPORT + METAL SHED REMOVED FOR PROPOSED GARAGE.

PROPOSED 21'X35' GARAGE
10' RIGHT OF WAY

EXISTING DWEL. 1724
EXISTING DWEL. 1726
EXISTING DWEL. 1728

CONCRETE DRIVE
14' W/2 OF WEST RD.

MIDDLEBOROUGH ROAD (45' R/W 22' PAVING)

STORM DRAIN

LOT SIZE: 13662 sq. ft. .31 ACRES

Plat for Zoning Variance
Owners: Dawn M. & Richard G. Shiflet, Jr.
District-15, Zoned D.R. 5.5
Subdivision: Middleborough PT LT 115
Lib 6584 Polio 0704

PETITIONER'S EXHIBIT 1

VICINITY MAP

CHESAPEAKE AVE
MIDDLEBOROUGH RD.
SUBJECT PROPERTY

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

September 28, 1989

COUNTY OFFICE BLDG.
111 W. Chesapeake Ave.
Towson, Maryland 21204

Mr. & Mrs. Richard G. Shiflet, Jr.
1726 Middleborough Road
Baltimore, MD 21221

RE: Item No. 1, Case No. 90-136-A
Petitioner: Richard G. Shiflet, et ux
Petition for Zoning Variance

Dear Mr. & Mrs. Shiflet:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that have a bearing on this case. Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

IT WOULD BE APPRECIATED IF YOU WOULD RETURN YOUR WRITTEN COMMENTS TO MY OFFICE, ATTENTION JULIE WINIARSKI. IF YOU HAVE ANY QUESTIONS REGARDING THIS, PLEASE CONTACT HER AT 887-3391.

Very truly yours,

James E. Dyer
JAMES E. DYER
Chairman
Zoning Plans Advisory Committee

JED:jw

Enclosures

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-5353

J. Robert Haines
Zoning Commissioner



Dennis F. Rasmussen
County Executive

Your petition has been received and accepted for filing this
19th day of July, 1989.

J. Robert Haines
J. ROBERT HAINES
ZONING COMMISSIONER

Received By:

James E. Dyer
Chairman,
Zoning Plans Advisory Committee

Petitioner: Richard G. Shiflet, et ux
Petitioner's Attorney:

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

DATE: October 5, 1989

TO: J. Robert Haines
Zoning Commissioner
FROM: Pat Keller, Deputy Director
Office of Planning and Zoning
SUBJECT: Richard C. Shiflet, Jr., et ux, Item 1
Zoning Petition No. 90-136A

The petitioner requests a Variance to permit a 0 ft. side yard setback and 18 ft. height in lieu of the minimum 2-1/2 ft. and a maximum 15 ft. for an accessory structure.

In reference to this request, staff offers no comment.

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3211.

PK/JL/pat

Rec'd later -> now ruled

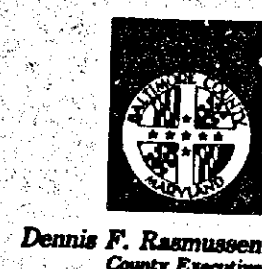
OCT 5 1989

Baltimore County
Department of Public Works
Bureau of Traffic Engineering
Courts Building, Suite 405
Towson, Maryland 21204
(301) 887-3554

RECEIVED
AUG 3 1989
ZONING OFFICE

July 31, 1989

Mr. J. Robert Haines
Zoning Commissioner
County Office Building
Towson, MD 21204



Dennis F. Rasmussen
County Executive

Dear Mr. Haines:

The Bureau of Traffic Engineering has no comments for items number 2, 3, 5, 6, 7, and 8.

Very truly yours,

Michael S. Flanigan
Michael S. Flanigan
Traffic Engineer Associate II

MSF/lab

Baltimore County
Fire Department
800 York Road
Towson, Maryland 21204-2586
(301) 887-4500

Paul H. Reinecke
Chief

JULY 26, 1989

J. Robert Haines
Zoning Commissioner
Office of Planning and Zoning
Baltimore County Office Building
Towson, MD 21204



Dennis F. Rasmussen
County Executive

RE: Property Owner: RICHARD G. SHIFLET, JR.
Location: N/S OF MIDDLEBOROUGH ROAD
Item No.: 1 Zoning Agenda: JULY 18, 1989

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

The Fire Prevention Bureau has no comments at this time.

REVIEWER: *Capt. Wm. Brady* Noted and Approved: *Capt. Wm. Brady*
Planning Group Fire Prevention Bureau
Special Inspection Division

JK/KEK

JUL 26 1989